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26874 7590 02/27/2008 FROST BROWN TODD, LLC 2200 PNC CENTER 201 E. FIFTH STREET CINCINNATI, OH 45202			EXAMINER ZURITA, JAMES H	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

09/518,916

Applicant(s)

LUKAS ET AL.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Prosecution History**

On 3 March 2000, applicant filed the instant application.

On 19 August 2003, the Examiner rejected claims 1-36.

On 9 June 2004, applicant added claims 37-39.

On 19 October 2004, the Examiner issued a final rejection.

On 17 March 2005, applicant requested Continued Prosecution.

On 17 June 2005, the Examiner reopened prosecution and rejected claims 1-39.

On 21 October 2005, applicant filed a response to the office action.

On 7 June 2006, the application incorrectly became abandoned.

On 16 November 2007, applicant resubmitted the materials of 21 October 2005 and requested that the holding of abandonment be revived.

On 31 December 2007, applicant submitted an Information Disclosure Statements along with additional references.

On 23 January 2008, the Office granted applicant's petition to revive the applicant and to withdraw the holding of abandonment.

The present office action responds to applicant's filings of 21 October 2005.

### ***Response to Amendment***

On 21 October 2005, Applicant amended claims 1, 5-7, 13-14, 18, 25, 30-32 and 37. Claims 1-39 are pending and will be examined. Claims 1, 18 and 37 are independent.

***Information Disclosure Statement***

The information disclosure statement filed 31 December 2007, 3 pages, "*Convergys Cross References*" fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the IDS refers to applications that are not related to the instant application. See 37 CFR 1.98.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

The IDS of 21 October 2005, entered as having 27 pages, appears to be a copy of applicant's response of 10/21/2005. Only the last page is a proper IDS.

***Official Notice and Traverse***

A "traverse" is a denial of an opposing party's allegations of fact.<sup>1</sup> The Examiner respectfully submits that applicants' single mention of the word traverse do not traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 706.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of applicant's failure to adequately traverse official notice, the following are admitted prior art: ...it was old and well known at the time of applicant's invention to include time outs in the absence of user response to a formatted display.

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<sup>1</sup> Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

***Claim Rejections - 35 USC § 112***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9-12 and 24, as interpreted, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term ***correlation between [...] product component and [...] characteristic in a user profile***, appear to refer to a relative desirability or relative importance attached to a particular component by a customer based on data stored as part of consumer information, and as expressed via customer's selections on a screen. However, the claims do not provide a way to measure this ***relative*** affiliation.

Correlation (claims 9-12 and 24) appears on page 16, lines 13-24, page 34, line 6, page 35, line 16 and page 35, line 30. Conflict (claim 10) appears on page 38, lines 13-18. Claim 10 reads,

The method of Claim 9, wherein said correlation between said component in said product and said characteristic in said user profile is reduced when there is a conflict between a first and a second component in a plurality of components associated with said base product.

Applicant's disclosures read:

The configuration is not considered completed when there is a conflict between one or more pairs of options selected. An exemplary conflict is a situation in which the user has picked, for example, a high quality computer monitor and a graphics card that does not support such a monitor. Sales module 104 further provides tools such as "update the current price" 1112 and "add to cart" 1114. page 38, lines 13-18.

### ***Claim Interpretation***

The following comments apply to all rejections.

Where applicant provides no explicit definition for a term, the Examiner relies on the term's ordinary meaning and broadest reasonable interpretation. *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d 1364, 1368, 67 USPQ2d 1947, 1949 (Fed. Cir. 2003): This applies to the following terms:

A **database** is any aggregation of data; a database is a file composed of records, each containing fields together with a set of operations for searching, sorting, recombining and other functions.<sup>2</sup> The claims are drawn to various named databases, including Sales database, claim 30, User profile database, claims 18, 26, 33, Knowledge database, claim 27, Advisor interaction database, claim 33, product preference database, claim 33, Product selection database, claim 33. The Examiner notes that the various labels do not provide patentable distinction. For purposes of this examination, the term database will be given its broadest reasonable interpretation to include logical and physical aspects of databases, including tables, files, views, etc. Prior art will be interpreted to read on the claims where prior art discloses storage and use of data related to particular functions.

**Modules and instructions.** The claims are drawn to various named modules and instructions, including Advisor module, claims 18, 28, 29, 31, 32, 35, 36 and Sales module, claims 28, 29, 30, 31, 32. The Examiner again notes that the various labels do not provide patentable distinction. For purposes of this examination, the terms modules

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<sup>2</sup> Definition of Database, MICROSOFT PRESS Computer Dictionary.

and instructions will be given their broadest reasonable interpretation to include computer instructions that perform various functions. Prior Art will be interpreted to read on the claims where prior art discloses the various functions.

**automated assistance** will be given its broadest reasonable interpretation to include selecting a help button, such as shown in Fig. 3C, as well as a customer's interaction over a telephone with help/support/sales personnel. Please note that the term "automated assistance" does not appear in applicant's disclosures; applicant refers to "...general assistance..."

**user profile** is a computer-based record maintained about an authorized user of a multiuser computer system.<sup>3</sup> Consistent with this definition, **user profile** will be given its broadest reasonable interpretation to mean storage and use of customer information including, but not limited to, user addresses, email information, telephone number, shopping history, shopping cart activity, etc.

**event** (as in User generated event, claim 11; User event, claim 16, 17; Event record, claim 29; User selectable event, claim 31) will be given its broadest reasonable interpretation to mean computer instructions that are executed in response to action(s) taken by a consumer when interacting with a computer, via a web page. For example, the term **user selectable event tag**, not otherwise mentioned in the specifications, will be interpreted to mean computer instructions that are executed when a customer makes a selection on a screen. Henson discloses the use of selectable events to notify the system that a user has made a selection, or when a user requests assistance, such as

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<sup>3</sup> Definition of *user profile*, MICROSOFT PRESS Computer Dictionary.



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when a user presses a help button (Applicant's new claim 37, automated assistance at the request of a user). For example, Col. 13, lines 6-53.

***correlation between a product component and a characteristic in a user profile***, (claims 9-12 and 24) will be given its broadest reasonable interpretation to mean the desirability or relative importance attached to a particular component by a customer based on data stored as part of consumer information, and as expressed via customer's selections on a screen.

### ***Rejections under 35 U.S.C. 102***

*Claims 1-12, 14-39*, as interpreted, are rejected under 35 U.S.C. 102(e) as being anticipated by Henson (US Patent 6,167,383). Applicant admits that there is at least one computer session involved in Henson. Applicant claims refer to ***one or more*** computer sessions. For example, claim1 reads

[claim 1] A method of optimizing a product during an optimization session, each optimization session comprising ***one or more*** computer sessions, said product including a base product, the method comprising the steps of...  
(e) repeating steps (b) through (d) across ***one or more*** computer sessions at ***least once*** to optimize said product.

*Claims 1-12, 14-39*, as interpreted, are rejected under 35 U.S.C. 102(e) as being anticipated by Henson (US Patent 6,167,383).

***As per amended claim 1*** Henson discloses methods for optimizing a product, during an optimization session, each optimization session comprising one or more computer sessions, said (a computer), the method comprising steps;

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a     **obtaining** an identification of a user. See, for example, references to Premier Pages and access by customers, including password. This information is part of a user profile. See at least Col. 14, lines 14, lines 19-61. Henson also discloses obtaining a preliminary designation of a product (a computer, for example).

Henson discloses identifying a user profile that is uniquely associated with the user, the user profile including at least one characteristic corresponding to the specific, individual user. Characteristics may include a user's billing address, shipping address, home address for home consumers, as in Col. 11, lines 63-Col. 12, line 9, password (password protected access), for example. It may also include a classification as to the specific type of user, including identification as an individual customer. See at least Col. 14, lines 14, lines 19-61.

b.     **providing a formatted display** that includes a set of content related to the product and a format, the set of content and the format determined by the at least one characteristic in the user profile; See, for example, references to displaying information that is relevant to a given customer, as in Col. 13, lines 53-61. See also at least references to consumer-specific variations of online stores and checkout, as in Col. 11, lines 10-31. See also references to displaying configurator views according to user preferences, as in Col. 9, lines 8-24 and Fig. 5, for example.

c     **updating**, based on a response by the user:

c.1     the at least one characteristic in the user profile to create an updated user profile. See, for example, at least references to a user shipping information. This

information is also part of the specific user's profile and is saved to create updated user information of a profile.

c.2 a component associated with the base product when the response includes a selection of an option from a different set of options associated with the component. See, for example, references to cart content screening, as in Col. 10, lines 18-67.

d) **storing** the **updated** user profile to determine the set of content and format of the formatted display for a future representation made to the user. See, for example, at least references to saving a cart (portion of a user profile) and viewing the cart later, as in Fig. 6, least Col. 9, lines 26-67.

e) repeating steps (b) through (d) at least once across one or more computer sessions to optimize the product. See, for example, at least Fig. 6, which shows that carts may be saved **for ordering later**. Formatted displays are provided when a user selects a different option of a component such as Memory, for example, as in Fig. 5. Henson's steps may be repeated until a user is satisfied with a product, i.e., until a user has optimized a product.

**As per claim 2**, Henson discloses that a product may further include a plurality of components associated with a base product, each component in the plurality of components corresponding to, and selected by the user from, a different set of options, using the formatted display. See, for example, at least Fig. 5 and related text.

**As per claim 3**, Henson discloses a default option is designated for each component in the plurality of components. See, for example, Fig. 4 and related text.

**As per claim 4**, Henson discloses that a formatted display comprises a menu including one or more elements selected from the group consisting of an option selected from the different set of options associated with the component, a frequently asked question associated with the component, an instructional sequence prompt, and a recommendation message. See, for example, at least Fig. 4, which shows a menu that includes an option from a different set of options associated with a hard drive, a component of a base product.

**As per amended claim 5**, Henson Discloses presenting the formatted display one or more suggested components based on the user profile, wherein said characteristic in said user profile that is updated in step (c) of Claim 1, based on said response to said formatted display, determines an element that is included in said menu in a subsequently executed instance of step (b) of Claim 1. See, for example, Fig. 6, which discloses saving a cart for later ordering. When the cart is displayed later, the cart contains elements (previously selected from menus).

**As per claim 6**, Henson discloses that a formatted display provides a portion of a set of options corresponding to a component associated with the base product. See, for example, at least Fig. 5, a formatted display that provides a portion of a set of options for hard drives, a component associated with a computer base product.

**As per amended claim 7**, Henson discloses that response to said formatted display of step (b) includes a designation of an option for a component associated with said base product and step (c) further comprises the step of updating at least one characteristic in said user profile associated with said component in said user profile.

See, for example, Fig. 5 and 6, which shows that user selection, such as a processor type, are saved and stored in a shopping cart, which stores updated information as part of a user profile.

**As per claim 8**, *Henson* discloses that a product is optimized when the user indicates that the product is optimized. See, for example, at least Fig. 6, which discloses that a user may place an order. The user indicates that a product is optimized for the user when the user places an order for the product.

**As per claim 9**, *Henson* discloses that a formatted display reports a correlation between a component in the product and a characteristic in the user profile when the correlation exceeds a threshold value. See, for example, references to the importance of lead times to various types of users, and that lead time indicators appear according to type of user, at least Col. 14, lines 35-61.

**As per claim 10**, *Henson* discloses that correlation between a component in a product and a characteristic in a user profile may be reduced when there is a conflict between a first and a second component in a plurality of components associated with the base product. See, for example, at least references warnings concerning compatibility issues among selected system component options, as in Col. 2, lines 5-48.

**As per claim 11**, *Henson* discloses that determining a change to a component in the plurality of components associated with a base product may maximize the correlation between the component in the product and the characteristic in the user profile. See, for example, references to messaging for recommending options that may be better than others according to different configurations, as in Col. 6, lines 21-43. The

recommendation may be presented in response to a user generated event (for example, a help button); and implementing the change to the product when a confirming response is received. See also references to compatibility warnings and consumer response, as in Col .15, lines 45-60.

**As per claim 12**, Henson discloses that a product may further include a plurality of components associated with the base product, each component in the plurality of components associated with, and selected from, a different set of options. See Figs. 4-5 and related text, for example.

Henson also discloses that the correlation between a component associated with the product and a characteristic in the user profile exceeds a threshold value when the response to the formatted display of step (c) includes a designation of an option for a component associated with the base product. Fig. 4-5, for example, show that customers may select components according to the relative perceived importance in a customer's selection.

**As per amended claim 14**, Henson discloses that options for said component are presented in said formatted display of step (b); wherein the selected component is dynamically selected from a plurality of components associated with said base product based on said user profile. See, for example, at least references to different types of computers and components according to type of user, such as an individual or corporation, as in Col. 14, lines 4-34.

**As per claim 15**, Henson discloses the steps of transmitting a set of questions, receiving at least one answer to the set of questions; and updating the characteristic in

the user profile based on the at least one answer. See, for example, references to stores allowing customers to answer questions, as in Col. 1, lines 28-46. see also references to questions that are asked or not asked according to different user profiles, as in Col. 13, lines 6-28. Please note that customers may be classified as personal, business, institutional users according to information provided by customers in response to questions. Formatted displays are customized accordingly.

**As per claim 16**, *Henson* discloses a characteristic in the *user profile* associated with the user is modified based on a user event associated with the user occurring during an optimization of a different product. See, for example, Fig. 5 and related text, which shows that a user may select a non-default option for a component. Such selection is an event that triggers an update of a shopping cart, which stores the selected (or newly selected) component. As noted above, a shopping cart is information that is stored about a user.

**As per claim 17**, *Henson* discloses a characteristic in the user profile associated with the user is modified based on a user event associated with the user occurring during an optimization of the product during a different session. See, for example, references to saving a cart, as in Fig. 6. The information contained in the cart may be modified with actions taken by a customer that occur during optimization of a computer during a later session, for example.

**As per claim amended 18**, *Henson* discloses computer readable memory to direct a computer to optimize a product during an optimization session comprising one or more computer sessions, said product including a base product, comprising:

**a user profile database** stored in the memory. See, for example, at least references to database 24. Henson discloses that each profile in the user profile database is uniquely associated with a different user and including a characteristic that corresponds to the user. See, for example, references to Premier Pages and access by customers, including password. This information is part of a user profile. See at least Col. 14, lines 14, lines 19-61.

**executable instructions**, including:

a) **instructions for obtaining an identification** of the user and a preliminary designation of the product; the identification identifying a user profile associated with the user that includes at least one characteristic corresponding to the user in the user profile database. The instructions permit Henson to identify a user profile that is uniquely associated with the user, the user profile including at least one characteristic corresponding to the specific, individual user. Characteristics may include a user's billing address, shipping address, home address for home consumers, as in Col. 11, lines 63-Col. 12, line 9, password (password protected access), for example. It may also include a classification as to the specific type of user, including identification as an individual customer. See at least Col. 14, lines 14, lines 19-61.

**instructions for creating a user profile when a user profile does not exist**

See, for example, at least Col. 12, lines 19-40, which disclose creating of **new** customers and customer sets when they do not exist.

b) **instructions for providing a formatted display** that includes a set of content related to the product, the set of content and the format determined by a function of a



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the at least one characteristic in the user profile. See, for example, references to displaying information that is relevant to a given customer, as in Col. 13, lines 53-61.

See also at least references to consumer-specific variations of online stores and checkout, as in Col. 11, lines 10-31. See also references to displaying configurator views according to user preferences, as in Col. 9, lines 8-24 and Fig. 5, for example.

c ***instructions for updating***, based on a response by the user (e.g., Fig. Fig. 6, SAVE MY CART):

c.1 the at least one characteristic in the user profile to create an updated user profile. See, for example, at least references to a user shipping information. This information is also part of the specific user's profile and is saved to create updated user information of a profile.

c.2 a component associated with the base product when the response includes a selection of an option from a different set of options associated with the component. See, for example references to cart content screening, as in Col. 10, lines 18-67.

d) ***instructions for storing*** the ***updated*** user profile to determine the set of content and format of the formatted display for a future representation made to the user. See, for example, at least references to saving a cart (portion of a user profile) and viewing the cart later, as in Fig. 6, least Col. 9, lines 26-67.

(e) repeating steps (b) through (d) across one or more computer sessions at least once to optimize said product.. See, for example, at least Fig. 6, which dhow that carts

may be saved for ordering later. Formatted displays are provided when a user selects a different option of a component such as Memory, for example, as in Fig. 5.

**Claim 19** is rejected on the same grounds as claim 2.

**Claim 20** is rejected on the same grounds as claim 3.

**Claim 21** is rejected on the same grounds as claim 6.

**Claim 22** is rejected on the same grounds as claim 7.

**Claim 23** is rejected on the same grounds as claim 8.

**Claim 24** is rejected on the same grounds as claim 9.

**Amended Claim 25** is rejected on similar grounds as claim 13.

**As per claim 26**, Henson discloses instructions for querying the aggregation of customer data and identifying the user profile from a response to the query. See, for example, references to retrieving stored customer information, as in saving and retrieving a cart, Fig. 6.

Where a response to the query fails to identify the profile, Henson discloses instructions for initiating a new user profile and associating the new user profile with the user. Henson also discloses that this new profile information is saved, such as for generating a customizable checkout for a particular customer according to the customer's needs. See, for example, at least Col. 12, lines 19-40, which disclose creating of new customers and customer sets.

**As per claim 27**, Henson discloses storing data, where the aggregation of data includes description of a base product and a description of at least one option in at least one set of options corresponding to a component associated with the base product.

See, for example, at least references to products and product information that is displayed for individual customers, as shown by Figs. 4-5, for example. The displayed formats of Figs. 4-5 are displayed by the execution of instructions that provide formatted displays. They include instructions to display sets of options corresponding to a component selected from the plurality of components (for example, in Fig. 5, see at least pull down menus for accessing description(s) of an option (such as memory) in the different set of options (memory, hard drive, monitor, etc.) associated with the component, drawn from product data. The function may also comprise a comparison of the description with the characteristic in the user profile. For example, the user profile may indicate a need for a computer with memory. The displayed information contains component information concerning memory; the description of various types of memory may include information such as SDRAM with ECC, as shown in Fig. 5.

***As per claim 28***, Henson discloses

- providing a product selection choice (via instructions that provide product selection choice); each the product in the product selection choice including a base product and at least one default component. See, for example, Figs. 4-5, i.e., formatted displays that show the results of instructions that provide product selection choice).
- receiving an election (via instructions for receiving an election); the election designating a product in the product selection choice. The instructions execute as a customer selects an option in a product selection formatted display of Figs. 4-5.
- determining (via instructions for determining) when to call an instance of the instructions for handling requests for assistance. See, for example, HELP ME

CHOOSE buttons, Fig. 5. When a customer selects the button, Henson calls an instance of instructions for handling requests for assistance.

- calling an instance (via instructions for calling an instance) of the instructions for handling requests for assistance. See, for example, HELP ME CHOOSE buttons, Fig. 5. When a customer selects the button, Henson calls an instance of the instructions for handling the request for assistance.

**As per claim 29**, Henson discloses instructions for generating an event record (e.g., determining that a customer has pressed a help button) when a customer requests assistance by pressing a help button, the customer is presented with customized assistance and information. See, for example, at least Figs. 4-5.

**As per amended claim 30**, Henson discloses

- storing pricing information associated with the product. See, for example, at least references to pricing, at least Col. 2, line 50-Col. 3, line 3, line 12.
- querying the aggregation of data for pricing information corresponding to the product selection. See, for example, at least Fig. 5, and references to configured price.
- transmitting the pricing information. See, for example, at least Fig. 5, which shows that the pricing information has been transmitted to a customer via a browser.

**As per amended claim 31**, Henson discloses

- instructions for providing a user selectable event. See, for example, Figs. 4-5, which show that a customer may select various options. When a customer selects an option, the system generates an event for the selection. See also displays of HELP ME CHOOSE buttons.

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- *"instructions for receiving an indication that said user selectable event tag has been selected by said user; said sales module further including instructions for notifying said instructions for handling requests for assistance when said tag is received" and instructions for notifying said advisor module when a signal indicating that said user selectable event has been selected is received.. In other words, instructions for providing assistance when a customer selects a help button, as shown in Figs. 4 and 5, for example.*

**As per amended claim 32** (interpreted in light of rejection under 35 U.S.C. 112) Henson discloses that a user may select (initiate) and unselect (terminate) options on a formatted display, including requests for assistance. See, for example, Fig. 4.

**As per claim 33**, Henson discloses that a user profile may include a user identifier (a user name, or userid, or password, for example, as in PREMIER PAGES password, Col. 14, lines 35-61) and at least one entry selected from the group consisting of

- a domain familiarity indicator,
- an advisor interaction database,
- a product preference database,
- a product selection database, and
- a user characteristic.

See, for example, at least references to storing information concerning customer characteristics for checkout and presenting information concerning business lease information for at-home buyers, as in Col. 12, line 11, line 64-Col. 12, line 39.

**Claim 34** is rejected on the same grounds as claim 4.

**As per claim 35**, Henson discloses a manifestation of the instructions for handling requests for assistance includes at least one feature selected from the group

consisting of an on-screen character, an audible voice, text, a multimedia prop, and a sound effect. See, for example, at least Figs. 3-4 and green check marks, at least Col. 8, lines 7-34. For text, see at least references to merchandising messages, as in Col. 13, lines 53-Col. 14, line 18. A character is a letter, number, punctuation mark or other symbol or control code that is represented to a computer by one unit [1 byte] of information.<sup>4</sup> For an on-screen character, please see question marks found in HELP ME CHOOSE, Figs. 4-5, for example. See also character(s) displayed in Figs. 3A-10.

***As per claim 36***, Henson discloses

- instructions for storing a record of the product optimization. See, for example, at least Fig. 6, SAVE MY CART button
- instructions for resuming a product optimization based on a stored record of a prior product optimization. See, for example, at least Fig. 6, CONTINUE SHOPPING button, which shows that retrieval of previously stored information of prior product optimization for resuming product optimization. See also references to shopping cart, which is information that is stored for later retrieval and continued activity such as shopping and product optimization.

***As per amended claim 37***, Henson discloses methods for optimizing a product, the product including a base product (a computer), method of optimizing a product, during an optimization **session** comprising one or more computer **sessions**, said product including a base product, the method comprising the steps of:

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<sup>4</sup> Definition of *character*, MICROSOFT PRESS Computer Dictionary.

- a obtaining an identification of a user and a preliminary designation of the product; the identification identifying a user profile that is uniquely associated with the user, the user profile including at least one characteristic corresponding to the user. See rejection of claim 1(a).
- b providing a formatted display that includes a set of content related to the product and a format, the set of content and the format determined by the at least one a characteristic in the user profile. See rejection of claim 1(b).
- c updating, based on a response by the user:
  - c.1 the at least one characteristic in the user profile to create an updated user profile. See rejection of claim 1(c.1).
  - c.2 a component associated with the base product when the response includes a selection of an option from a different set of options associated with the component. See rejection of claim 1(c.2).
- d) storing the updated user profile to determine the set of content and format of the formatted display for a future representation made to the user across one or more computer sessions at least. See rejection of claim 1(d).
- e) repeating steps (b) and (c) at least once to optimize the product. See rejection of claim 1(e).
- f providing automated assistance at the request of the user. See, for example, Fig. 3A, buttons "HELP ME CHOOSE";
- (g) presenting in the formatted display one or more suggested components based on the user profile. See references to help messages..

**As per claim 38**, Henson Henson discloses PREMIER PAGES, Col. 14, lines 35-61. PREMIER PAGES keep track of a customer's purchase and service history, as evidenced by Dell Uses Internet to Offer Small Business Customers Personalized Sales and Educational Programs, *Business Editors & Technology Writers*. Business Wire, New York: Jul 20, 1998, downloaded from ProQuest on the Internet on 14 October 2004, 2 pages. Please note that Dell is cited merely to explain the meaning of the term PREMIER PAGES, and to show that characteristics not disclosed in Henson are inherent in PREMIER PAGES. See MPEP 2131.01, Multiple Reference 35 U.S.C 102 rejections.

**As per claim 39**, Henson discloses that at least one characteristic in a user profile comprises an indication of the user's price sensitivity. See, for example, at least references to price sensitivity such as discount pricing, which may be applicable to different customers; such information is stored in a user profile. Col. 14, lines 35-61.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (US Patent 6,167,383) in view of admitted prior art.

**As per amended claim 13**, Henson **does not** specifically disclose that if a user does not respond to a formatted display within a period of time, the system may generate an event that the user has chosen not to respond to the formatted display



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within the period of time, as in a time out.<sup>5</sup> Henson discloses the use of passwords and logins, as in Col. 11, lines 63-Col. 12, line 9. Official Notice is taken that it was old and well known at the time of applicant's invention to include time outs in the absence of user response to a formatted display. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Henson and general knowledge to disclose that if a user does not respond to a formatted display within a period of time, the system may generate an event that the user has chosen not to respond to the formatted display within the period of time. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Henson and general knowledge to disclose that if a user does not respond to a formatted display within a period of time, the system may generate an event that the user has chosen not to respond to the formatted display within the period of time for the obvious reason that by doing so, a system may thus protect itself against crackers.

**Claim 38** is rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (US Patent 6,167,383) in view of Dell Uses Internet to Offer Small Business Customers Personalized Sales and Educational Programs, *Business Editors & Technology Writers*. **Business Wire**, New York: Jul 20, 1998, downloaded from ProQuest on the Internet on 14 October 2004, 2 pages.

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<sup>5</sup> A timeout is an event that indicates that a predetermined amount of time has elapsed without some other expected event taking place; a time-out event is used to interrupt the process that had been waiting for the other expected event. For example, a system might allow a user 60 seconds to log in after making a connection. If the user fails to enter a valid login name and password within this time, the computer breaks the connection, thus protecting itself against crackers as well as freeing up resources. Definition of time out, timeout or time-out, MICROSOFT PRESS Computer Dictionary.

**As per claim 38**, Henson **does not** specifically disclose that at least one characteristic in the user profile comprises an indicator that indicates the number of times that the user requested automated assistance. Henson discloses PREMIER PAGES, Col. 14, lines 35-61. PREMIER PAGES keep track of a customer's purchase and service history, as evidenced by Dell Uses Internet to Offer Small Business Customers Personalized Sales and Educational Programs, *Business Editors & Technology Writers*. Business Wire, New York: Jul 20, 1998, downloaded from ProQuest on the Internet on 14 October 2004, 2 pages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to disclose storing in a customer database information such as an indicator that indicates the number of times that the user requested automated assistance.

One of ordinary skill in the art at the time the invention was made would have been motivated to disclose storing in a customer database information such as an indicator that indicates the number of times that the user requested automated assistance for the obvious reason that by storing the information, a merchant can determine whether particular customers need more assistance than others. In addition, tracking service histories of products assists merchants to determine that particular products are less reliable and are responsible for a large number of requests for assistance, for example.

### ***Response to Arguments***

Applicant's arguments filed 21 October 2005 have been fully considered.

Objections to claims 1, 7 and 30 are withdrawn in view of amendment.

Rejections of claims 13 and 31 under 35 USC 112, first paragraph are withdrawn in view of amendment. Rejection of claims 13 and 32 under 35 USC 112, second paragraph, is withdrawn in view of amendment.

Applicant's comments concerning rejection of claim 13 under 35 USC 101 are persuasive. The Rejection of claim 13 under 35 USC 101 is withdrawn.

Rejection of claim 10 under 35 USC 112, second paragraph remains. Applicant cites page 11, lines 10-15 in the specifications as one of "various methods" disclosed to correlate between product component and a characteristic in a user profile. There is no mention of user profile in the cited text; there is no mention of level of interest in claim 10. See also new rejections of claims 9-12 and 24 necessitated by applicant's remarks concerning correlation.

Applicant's arguments concerning rejections under 35 USC 102(e) and 103(a) are not persuasive. Applicant quotes two lines in Henson to conclude that Henson fails to show user data persistence.

...Applicants note that Henson states that "[a] user can place an item into the cart, back out of the store, re-enter and place another item in the cart, because the cart is controlled by a session." Henson, Col. 10, lines 52-54.

Applicant's reference to 2 lines in Henson fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or

she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Further, applicant's comments concerning Henson's data persistence, including "user profile" data are misleading. HTTP is a stateless protocol. Henson saves data, including cart data and user data in database 24 across one or more iterations of a web page. Applicant also uses HTTP (Fig. 1, browser) and web pages. Applicant has not shown how his application of HTTP is different from Henson's.

The Examiner respectfully notes references to update/refresh of a web page (as in Col. 6, lines 44-67). Henson clearly addresses problems of having to finish an all-in-one form and breaking up the process into different iterations of the optimization process. See, for example, at least Henson, Col. 11, lines 32-53. See also Henson, Col. 14, lines 42-45, customer sets may include individual customers.

Applicant has introduced the concept of user profile persistence across multiple [...] sessions:

- user profile being persistent across multiple optimization sessions [claim 1]
- user profile...persisting across multiple optimization sessions. [claim 18]
- user profile...persistent across multiple optimization sessions [claim 37]
- 

Nothing in applicant's invention distinguishes applicant's user profile... persistent across multiple...[optimization]...sessions from Henson's use of HTTP and web pages.

The Examiner again respectfully directs applicant's attention to previously cited portions of Henson which disclose that Henson permits customers to select and update characteristics of their information in the databases: Fig. 8, for example, shows that

customers may change their type of business or organization. Henson changes displays, options, merchandising and pricing accordingly. See also at least Col. 10, lines 30-Col. 11, line 9. Thus, changes in user data ("user profile data") is **persistent** across multiple optimization **sessions**, as claimed.

Applicants asserts, page 17,

...present version of Claim 1 currently claims that the data stored in the updated user profile is persistent across both computer sessions and optimization sessions and thus patentable over Henson.

Even if one were to agree with applicant's misreading of Henson, the Examiner notes that Henson, by applicant's admission, anticipates the amended claims, since the claims now permit optimization sessions to occur in single computer session:

[claim 1] A method of optimizing a product during an optimization session, each optimization session comprising **one or more** computer sessions, said product including a base product, the method comprising the steps of...  
(e) repeating steps (b) through (d) across **one or more** computer sessions at **least once** to optimize said product.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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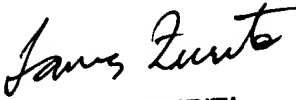
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**James Zurita**  
**Primary Examiner**  
**Art Unit 3625**  
8 February 2008

  
JAMES ZURITA  
PRIMARY EXAMINER